

Docket No. 1791.003
Application No.: 10/074,713

REMARKS

Without acquiescing to the propriety of the rejections in the Office Action dated July 1, 2003, claims 1, 4, 8, 9, 12, 13, 15, and 20 have been amended. Claims 2, 3, 6, 14, and 16-19 have been canceled and new claims 21 and 22 have been added. Entry of these amendments, reconsideration of the application and allowance of all claims pending herein is respectfully requested in view of the remarks below. Claims 1, 4-5, 7-15 and 20-22 are currently pending and under consideration.

Section 112 Rejections

Claim 9 stands rejected under 35 U.S.C. § 112 as containing subject matter which was not described in the specification to convey to one skilled in the art that the inventor had possession of the invention at the time of the filing of the application. Specifically, the "means for inhibiting ... a side of said means for movably attaching ... from rising about a position substantially orthogonal to the mast" is allegedly not described in the specification.

Page 5 of the specification describes an angle-maintaining member 25 which maintains mast-attaching member 20 at an angle oblique to a mast 30. Specifically, it is stated that mast-attaching member 20 may be held by angle-maintaining member 25 such that a first end 120 of mast-attaching member 20 is lower than a second end 130 thereof and further first end 120 may be maintained such that it does not rise above a point wherein mast-attaching member 20 is substantially perpendicular to mast 30. It is respectfully submitted that such description along with original claim 9, which provides its own support, describes an angle-maintaining member which inhibits a side of mast-attaching member 120 from rising above a position substantially orthogonal to a mast. Thus, it is believed that this rejection is overcome.

Claims 8, 9 and 13 stand rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, claims 8 and 9 are allegedly indefinite since they recite limitations of angles with respect to a mast, which is not claimed, thus rendering the claims indefinite. Claim 13 is alleged to be merely functional and does not further limit any claimed element.

Claims 8 and 9 recite means for maintaining the means for movably attaching the bosun's chair to the mast at particular angles relative to the mast. As noted in the Office Action, the mast itself is not claimed. However, claim 1 recites the means for movably attaching a bosun's chair to the mast and amended claims 8 and 9 recite means for maintaining and inhibiting, respectively, the means for movably attaching relative to the mast when the means for movably

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attaching is attached to the mast. The recitation in claims 8 and 9 thus further recite elements operating on the means for movably attaching, utilizing the mast as a reference point. It is clear from these claims that the means for maintaining and the means for inhibiting recite further details of the safety device. Further, a means plus function claim element under § 112, sixth paragraph, incorporates the disclosure of the specification and drawings of the element including details of how a function is performed. Multi-Formed Desiccants, Inc. v. Medzam Limited, Ltd., 45 USPQ 2d, 1429, 1433-34 (Fed. Cir. 1998). As described above for angle-maintaining member 25, support for maintaining the means for movably attaching a bosun's chair to the mast is provided on page 5 of the specification. Thus, it is believed that claims 8 and 9 satisfy § 112 and that this rejection is overcome.

A functional limitation is one, which attempts to "define something ...by what it does rather than what it is..." In re Swinehart, 439 F.2d 210, 169 USPQ 226 (CCPA 1971), MPEP § 2173.05(g). Claim 13 has been amended to recite an activation member which is configured to receive a force when the force results from a failure of means for supporting the bosun's chair. It is respectfully submitted that such revision overcomes the rejection of this claim. Specifically, the activation member is configured to receive a force from a particular source, and therefore the recitation of such "configuration" recites what it is, i.e., configured to receive a force, and not what it does, i.e., cause the means for braking to brake. Accordingly, the recitation in claim 13 is not a functional limitation, and this rejection is believed to be overcome.

Section 102 Rejections

Claims 1-10, 12, 13 and 20 stand rejected under 35 U.S.C. 102(e) as being clearly anticipated by Skinner. Specifically, Skinner is alleged to disclose all the elements of these claims except a pivotally attached activating means.

Claim 20 of the present application now recites a safety device for a bosun's chair which includes a mast-attaching member movably attached to a mast, a bosun's chair coupled to an activation member, and a brake configured to brake the bosun's chair relative to the mast. Further, the brake is coupled to the activation member and the mast-attaching member. The activation member is pivotally connected to the mast-attaching member and configured to cause the brake to contact the mast to slow a descent of the mast-attaching member and the bosun's chair in response to a force being placed on the activation member by the bosun's chair. The brake is configured to allow movement of the mast-attaching member in response to a lack of the force.

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Skinner et al. discloses a man lift apparatus which includes a handle secured to first and second arms which each extend partially around a pole-type support. The man lift apparatus is activated against the pole-type support by a force being applied to the handle. The device also includes a support connector 28 which may be connected to a cord which in turn may be connected to a bosun's chair. However, there is no disclosure of an activation member pivotally connected to a mast-attaching member nor such an activation member being connected to a bosun's chair. Further, there is no disclosure of a brake pivotally connected to a mast-attaching member to allow movement of such a mast-attaching member. Instead, Skinner et al. discloses a handle which is positioned to secure first and second arms to a pole-type support, but does not disclose an activation member, nor a brake, pivotally connected to a mast-attaching member. Therefore, because Skinner et al. does not identically disclose the elements of claim 20 of the present application, this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Claim 1 of the present application now recites a safety device for a bosun's chair which includes means for moveably attaching the bosun's chair to the mast, means for braking the means for moveably attaching the bosun's chair to the mast, and means for supporting the bosun's chair. The means for braking is configured to slow a descent of the bosun's chair in response to a failure of the means for supporting the bosun's chair, wherein the means for braking is separate from the means for supporting.

Skinner et al. discloses a bosun's chair connectable to a man lift apparatus and a first and second pulley having a line 64 which is connectable to a bosun's chair. However, there is no disclosure of means for braking means for moveably attaching a bosun's chair to the mast in response to a failure of means for supporting the bosun's chair with the means for braking being configured to slow a descent of the bosun's chair. Instead, a bosun's chair is disclosed as being connectable to a man lift apparatus and to a line attached to a pulley, but there is no indication that the man lift apparatus is configured to slow a descent of the bosun's chair in response to a failure of line 64. In particular, column 5 of Skinner et al. discloses a handle which receives a weight causing the man lift apparatus to grip the pole-like structure to support the weight of a user without slipping. Also disclosed is a connector 28 which may be utilized to secure a rope or line between the man lift apparatus and the user. However, there is no disclosure of the man lift apparatus being secured to the pole-like structure in response to a failure of line 64. Instead, the device appears to be utilized in a stationary position and there is no description of means for braking which is configured to slow a descent of a bosun's chair in response to a failure of a separate means for supporting the bosun's chair. Further, a review of the figures shows connector 28 being connected to a man lift apparatus at a point radially inward of the handle.

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The difference in leverage between weight being applied at the handle and at such connector 28 is evident from such figures. It appears unlikely that the man lift apparatus would slow or stop a user solely connected to the man lift apparatus by connector 28, i.e., without a weight being applied to the handle by a user, due to the radially inward position of connector 28 and accompanying minimal application of leverage. This is in contrast to the means for braking recited in claim 1 which is configured to slow a descent of a bosun's chair in response to a failure of means for supporting the bosun's chair. Thus, Skinner et al. does not disclose means for braking means for movably attaching a bosun's chair to a mast in response to a failure of means for supporting the bosun's chair with such means for braking being configured to slow a descent of the bosun's chair. Therefore, because Skinner et al. does not identically disclose the features of claim 1, this claim is not believed to be anticipated and it is believed to be allowable. The dependent claims are believed to be allowable for the same reasons and for their own additional features.

Claims 1-6, 8-10, 12, 13 and 20 stand rejected under 35 U.S.C. 102(b) as being clearly anticipated by Erickson (U.S. Patent No. 4,694,934). Erickson is alleged to disclose a brake, means for supporting, means for attaching, and means for maintaining and inhibiting.

Erickson discloses a portable elevating device which includes an anchor 12 which has legs 30, 32 and 34 configured to be secured to a tree. However, as noted above for Skinner, there is no disclosure of an activation member pivotally connected to a mast-attaching member, nor a brake pivotally connected thereto. Instead, this reference discloses an anchor which is configured to surround a portion of a tree and which has a member 14 for being secured to a cable which is secured on its other end to an apparatus for supporting a person, but member 14 is not pivotally connected to the remainder of the device as noted on page 4 of the Office Action. Thus, because the features of claim 20 of the present application are not identically disclosed by Erickson, this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Further, Erickson does not disclose means for braking any means for movably attaching a bosun's chair to a mast nor such means for braking being configured to slow a descent of such a bosun's chair in response to a failure of means for supporting the bosun's chair when the means for braking the means for supporting are separate. Instead, an apparatus 10 for supporting a user is connected to anchor 12 by a cord, but there is no disclosure of a separate braking means and supporting means as recited in claim 1. Thus, because the features of claim 1 of the present application are not identically disclosed by Erickson, this claim cannot be anticipated

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thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Claims 1-3, 5, 6, 8, 10, 12, 13 and 20 stand rejected under 35 U.S.C. 101(b) as being clearly anticipated by Raymer (U.S. Patent No. 1,955,473). Raymer discloses a safety appliance for a brakeman which includes a chain connectable to a brake shaft and a person. The chain is connected to the brake shaft by a device which partially surrounds the brake shaft and which is biased to a latching position as shown in Fig. 3 and described in column 2. However, there is no disclosure of an activation member which is configured to cause a brake to contact a mast to slow a descent of a mast-attaching member in a bosun's chair in response to a force being placed on such activation member by such bosun's chair, as recited in claim 20 of the present application. Instead, the device in Raymer is attached to a brake shaft by a user thereby connecting the brake shaft and the user, but unlike the activation member recited in claim 20, the Raymer device does not cause a brake to contact a mast to slow a descent of a mast-attaching member and a bosun's chair in response to a force being placed thereon. Thus, because the features of claim 20 of the present application are not identically disclosed by Raymer, this claim is believed not to be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Also, Raymer does not disclose a means for braking configured to slow a descent of a bosun's chair and a separate means for supporting such a bosun's chair, as is recited in claim 1 of the present application. Instead, Raymer discloses means for attaching the user to a brake shaft without a separate means for braking and supporting, or a bosun's chair. Thus, because Raymer does not identically disclose the features of claim 1 of the present application, it is believed that this claim is not anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Claims 1-6, 10-15 and 20 stand rejected under 35 U.S.C. (b) as being clearly anticipated by Greenway. Specifically, Greenway is alleged to disclose an activating member and means for supporting.

Greenway et al. discloses a pole climber's safety device which includes two half yokes hingedly interconnected together and secured by releasable fastening. Further included are blades biased to a pole engaging position and manually retractable. However, there is no disclosure of a brake, nor an activation member, which is pivotally connected to a mast-attaching member and which is configured to cause such brake to contact a mast to slow a descent of the mast-attaching member in response to a force being placed on such activation member by the bosun's chair. Instead, the blades disclosed in Greenway et al. are biased to a pole engaging

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position and are not connected to a bosun's chair nor are they configured to slow descent of a mast-attaching member in response to a force being placed on such activation member, since they are biased to engage a pole without such force being applied. Thus, because the features of claim 20 of the present application are not identically disclosed by Greenway et al., this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Further, Greenway et al. does not disclose a separate means for supporting the bosun's chair and means for braking means for movably attaching a bosun's chair to a mast, as recited in claim 1. Instead, Greenway et al. discloses a cord being attached from the pole climber's safety device to a user, but does not disclose a separate means for supporting and means for braking. Thus, because the features of claim 1 of the present application are not identically disclosed by Greenway et al., this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Claims 1, 10-12, 14, 15 and 20 stand rejected under 35 U.S.C. 102(a) as being clearly anticipated by Turner. Specifically, Turner is alleged to disclose a brake, means for attaching, and means for supporting a removable attaching means.

Turner discloses a platform having grab hooks attachable to a pole and a downwardly extending portion having a pointed dog 18 which is forced into a pole, at a center thereof. The platform further includes a pulley system to allow a user to retrieve tools from a lower area. The grab hooks are insertable into the pole by a hammer or the like. However, Turner does not disclose a mast-attaching member moveably attachable to a mast, as recited in claim 20. Further, Turner does not disclose a bosun's chair coupled to an activation member nor a brake coupled to such an activation member with the brake being configured to slow a descent of the mast-attaching member and the bosun's chair in response to a force being placed on such activation member by a bosun's chair. Instead, Turner discloses a platform which is connected to a pole by grab hooks and a pointed dog which are insertable into the pole and thus are not moveable relative thereto. Further, there is no disclosure of a brake which is configured to slow a descent of a mast-attaching member and a bosun's chair. The downwardly-extending portion having a pointed dog which is alleged to be a brake would not slow the descent of a mast-attaching member and a bosun's chair but is instead configured to be inserted into a pole. Moreover, such insertion of the pointed dog would not allow movement of a mast-attaching member in response to a lack of force being placed on such activation member, as recited in claim 20. Therefore, because the features of claim 20 of the present application are not

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identically disclosed by Turner, this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Further, Turner does not disclose a separate means for supporting a bosun's chair and means for braking a means for moveably attaching a bosun's chair to a mast, as is recited in claim 1. Specifically, even if the device of Turner was somehow connectable to a bosun's chair, it is not moveably attachable to a mast nor does it include a separate means for supporting such a bosun's chair and means for braking the means for attaching the bosun's chair relative to the mast. Thus, because the features of claim 1 of the present application are not identically disclosed by Turner, this claim cannot be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Claims 1-6, 10, 12-15 and 20 stand rejected under 35 U.S.C. 102 (a) as being clearly anticipated by Japanese patent 2-101257. It is not clear how this reference discloses the subject matter alleged, but this reference does not disclose a mast-attaching member, a bosun's chair, an activation member connected to a bosun's chair, nor a brake configured to slow a descent of a mast-attaching member and a bosun's chair in response to a force being placed on the activation member by a bosun's chair, as recited in claim 20 of the present application. Further, there is no disclosure of a brake pivotally connectable to a mast-attaching member to allow movement of the mast-attaching member in response to a lack of such a force. Instead, this reference appears to disclose a structure having a pole attaching device which includes a pivotally activated device for maintaining a portion of the structure at a height relative to another portion of the structure, but there is no disclosure of a mast-attaching member, let alone a brake which is configured to slow a descent of such mast-attaching member in response to a force being placed on an activation member nor such a brake being pivotally connected to such mast-attaching member to allow movement of the mast-attaching member in response to a lack of such a force. Thus, because the features of claim 20 of the present application are not identically disclosed by this reference, this claim is believed not to be anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and for their own additional features.

Further, the Japanese reference does not disclose means for moveably attaching a bosun's chair relative to a mast nor means for supporting a bosun's chair which is separate from means for braking the means for moveably attaching the bosun's chair relative to the mast, as is recited in amended claim 1. Therefore, because of the features of claim 1 of the present application are not identically disclosed by the Japanese reference, this claim cannot be

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anticipated thereby. The dependent claims are believed not to be anticipated for the same reasons and their own additional features.

Section 103 Rejections

Claims 14 and 15 stand rejected under 35 U.S.C. 103 as being obvious over either Skinner or Erickson in view of Turner or Japanese patent '257. As noted above, Skinner and Erickson are alleged to show the claimed device except for a pivotally attaching activating means. Turner is alleged to disclose such pivotally activating means 11 while the Japanese reference is alleged to show a pivotally attached activating means 5. Further, it is alleged it would be obvious to one of ordinary skill in the art to modify either Skinner or Erickson to include a pivotally activating means to lessen a camming action of a moveably attaching member on the mast due to the force applied to the attaching means.

Further, claim 14 has been canceled and its subject matter incorporated into claim 1. Claim 15 has been amended to depend from claim 1 due to the incorporation of claim 14 therein. Also, the rejection of claim 15 relies upon the § 102 application to its base independent claim and it is believed to be allowable for the same reasons as claim 1 described above and for its own additional features.

Amended claim 20 has incorporated the subject matter of previous claim 14 and portions of claim 15. As described above, amended claim 20 recites, *inter alia*, an activation member pivotally connected to a mast-attaching member and configured to cause a brake to contact a mast to slow a descent of a mast-attaching member and bosun's chair in response to a force being placed on the activation member by the bosun's chair. Further, the brake is pivotally connected to the mast-attaching member to allow movement of the mast-attaching member in response to a lack of the force. As described above, Turner discloses a device which includes grab hooks and a pointed dog which are driven into a pole. Such a device could not allow a brake to allow movement of a mast-attaching member when no force is applied to an activation member coupled to the brake, as recited in claim 20, due to the insertion of the grab hooks and pointed dog into the pole which would prevent any movement thereof. Further, the device in Turner could not slow a descent of a mast-attaching member since it is stationary relative to a pole due to the fact that it is inserted into the pole. Thus, the combination of Turner with any of the cited references could not result in claim 20 of the present application since such a combination would not result in a brake which is moveably attachable to a mast-attaching member to allow movement of such mast-attaching member nor would it result a brake configured to contact a mast in response to a force being placed on an activation member by the bosun's chair to slow a descent of the mast-attaching member and the bosun's chair. Thus,

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claim 20 is believed to be allowable over a combination of Turner with these references. The dependent claims are believed to be allowable for the same reasons and their own additional features.

Also, the Japanese reference does not disclose a brake which is pivotally connected to a mast-attaching member to allow movement thereof in response to a lack of a force on a activation member, as recited in claim 20. Further, there is no disclosure that the device in the Japanese reference would slow a descent of such a mast-attaching member as recited in claim 20. Instead, the device appears to hold one portion of a larger system relative to another portion of such system due to a friction portion pivotally connected to a portion which wraps around a pole portion, but there is no indication of movement of a mast-attaching member, nor is there an indication of a brake pivotally connected to such a mast-attaching member to allow movement thereof in response to a lack of a force thereon or which would slow a descent of such mast-attaching member. Because the combination of Japanese reference with the cited references would not result in the features recited in claim 20 of the present application, this claim is believed not to be obvious over these references. The dependent claims are believed not to be obvious for the same reasons and their own additional features.

Moreover, it is not clear from the cited Japanese reference that it is within the same field of the present invention or reasonably pertinent to the problem' which the invention sought to solve. A reference must be within the same field or reasonably pertinent to allow it to be properly combined with any other reference for obviousness purposes. Such determination may require a translation of such reference. If such translation has been obtained by the Patent and Trademark Office, please provide the same to the undersigned.

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CONCLUSION

In view of the above amendment and remarks, applicant respectfully requests allowance of all claims pending herein.

If a telephone conference would be of assistance in advancing prosecution of the subject application, the Examiner is invited to telephone the undersigned attorney at the telephone number provided.

Respectfully submitted,

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